

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2880 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRIYESH @ RAJU @ MONTU

NARENDRABHAI POPAT

Versus

STATE OF GUJARAT

Appearance:

MR AR SHAIKH for Petitioner

Mr.R.M.Chauhan, GOVERNMENT PLEADER for Respondent

No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 10/08/98

ORAL JUDGEMENT

1. The petitioner has filed this petition under Article 226 of the Constitution of India challenging the legality and validity of the order, dated 27.1.1998 passed by the Police Commissioner, Rajkot city under section 3(1) of the Gujarat Prevention of Anti-Social

Activities Act, 1985 (hereinafter referred to as "the Act").

2. In the grounds of detention supplied to the detenu , the detaining authority has placed reliance on 13 criminal cases registered against the petitioner for alleged offence under sections 454, 457, 380 IPC , out of which 8 are at the trial stage before the criminal court while the remaining are at the investigation stage There are three witnesses whose statements have been recorded by the detaining authority for the alleged incidents, dated 25.12.1997 and 3.1.1998 and 7.1.1998 when the witness were beaten on the ground that they refused to keep the wrist watch suspecting it to be a stolen article and to pay amount of Rs.115/- in lieu of the same to the petitioner and on another occasion concerned witness demanded Rs.750/- from the petitioner paid to him in lieu of the wrist watch taken as security and the petitioner refused to accept said request of the petitioner and on the last incident concerned witness did not oblige the petitioner in making payment of Rs.300/the petitioner took out Rs.480/- from cash counter and started beating the witness. On all these occasions when the witnesses were beaten many people gathered to watch the incident. However, nobody made any attempt to save the witnesses because of fear of the petitioner. Not only that the crowd started running helter-skelter when the petitioner ran towards them with open knife and atmosphere of fear was created and the even tempo of public life was disturbed. Considering this material the detaining authority has recorded the finding that the petitioner is a "dangerous person" within the meaning of section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner which has been challenged by this petition.

3. This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegation made against the petitioner are true, the same at best can be treated as breach of law and order and not public order. I have gone through the statements of witnesses which are stereotype. Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it can not be contended that the petitioner, is involved in committing breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining

authority that the petitioner is a dangerous person is also vitiated. The order of detention is therefore liable to be quashed and set aside.

4. In the result, the petition is allowed. The order of detention, dated 27.1.1998 is quashed and set aside. The detenu-Priyesh @ Raju @ Montu Narendrabhai Popat is ordered to be released forthwith if not required in connection with anyother offence. Rule is made absolute to the aforesaid extent with no order as to costs.

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